

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

KENNETH WINSTON DIAL,

Plaintiff,

VS.

Case No. 4:15-cv-0635-CLS-JEO

TERESA TANNER PULLIAM,
et al.,

Defendants.

MEMORANDUM OPINION

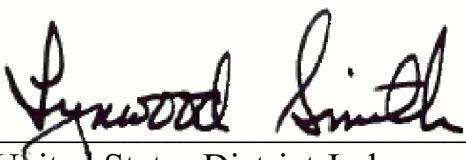
The magistrate judge filed a report on August 31, 2015, recommending that this action be dismissed without prejudice for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). Plaintiff has filed objections to the report and recommendation which the court finds meritless.

In his objections, plaintiff argues that the state court judges who presided over his criminal trial in 1993 somehow lacked subject matter jurisdiction based upon the failure to the Alabama Constitution (1901) to contain an equal protection clause. Not only does plaintiff fail to cite any authority for this novel assertion, it is clear that “[i]n Alabama, circuit courts have subject matter jurisdiction over felony prosecutions.” *Charest v. Mitchem*, 2015 WL 5121733 at *5 (S.D. Ala. August 31, 2015); citing *Seymore v. State of Alabama*, 946 So. 2d 536, 539 (Ala. 2006); Ala. Code § 12-

11-30. Equally unavailing is plaintiff's argument that the Alabama Constitution's lack of an equal protection clause somehow violates the United States Constitution's Supremacy Clause. He again cites no authority for this proposition, and alleges no facts which demonstrate defendants violated the Fourteenth Amendment while presiding over his criminal prosecution.

Accordingly, having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be, and it hereby is, ADOPTED, and the recommendation is ACCEPTED. Therefore, in accordance with 28 U.S.C. § 1915A(b)(1), this action is due to be dismissed without prejudice for failing to state a claim upon which relief can be granted. A Final Judgment will be entered contemporaneously herewith.

DONE this 25th day of January, 2016.



United States District Judge